

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**MACKENZIE SHERIDAN**

**APPELLANT,**

**v.  
DIVISION OF EMPLOYMENT  
SECURITY**

**RESPONDENT.**

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DOCKET NUMBER WD76046 Consolidated with WD76387 and WD76388

DATE: March 25, 2014

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Appeal From:

Labor and Industrial Relations Commission

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Appellate Judges:

Division Two: Gary D. Witt, Presiding Judge, Lisa White Hardwick, Judge and Alok Ahuja,  
Judge

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Attorneys:

Edward E. Keenan, Kansas City, MO, for appellant.

Christine K. Lesicko, Jefferson City, MO, for respondent.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**MACKENZIE SHERIDAN,**

**APPELLANT,**

**v.**

**DIVISION OF EMPLOYMENT  
SECURITY,**

**RESPONDENT.**

No. WD76046 Consolidated with  
WD76387 and WD76388

Labor and Industrial Relations Commission

Before Division Two: Gary D. Witt, Presiding Judge, Lisa White Hardwick, Judge and Alok Ahuja, Judge

Mackenzie Sheridan-Kautzi appeals the Labor and Industrial Relations Commission's determination that she was not entitled to six weeks of unemployment benefits on the ground that she was "unable to work" following childbirth, an issue the agency raised *sua sponte*. Sheridan-Kautzi asserts three points of error on appeal. First, she argues that the Commission acted without or in excess of its powers in that the Appeals Tribunal deprived her of a fair hearing by raising the ability and availability to work after childbirth *sua sponte*, without providing notice to her that this issue would be addressed at the hearing. Second, she argues that there was not sufficient competent evidence to warrant the decision relating to her inability to work in that the evidence demonstrates that she was able and available to work. Third, she argues that there was not sufficient competent evidence to warrant the decision assessing overpayment because the Appeals Tribunal's determination that she was ineligible for benefits is invalid due to error cited in her first and second points.

**REVERSED AND REMANDED**

Division Two Holds:

(1) The Commission expressly credited Sheridan-Kautzi's testimony that her childbirth was without complications, resulted in a two-day hospital stay, and did not require follow-up care until her regularly scheduled six-week checkup. We read the Commission's decision as holding that, to discharge her burden of proof, Sheridan-Kautzi could not rely solely on her own lay testimony and instead was required to present medical evidence of her ability to work following childbirth. That conclusion was legally erroneous.

(2) The determination of whether an unemployed worker is "able to work" does not exclusively require medical testimony and must instead be based on all of the evidence concerning the worker's circumstances. In particular, there is nothing so unusual or extraordinary about a normal childbirth, without medical complications or non-routine follow-up care, which requires that a medical professional pronounce the worker "able to work" before the Commission can find that the worker is eligible for unemployment compensation.

(3) The Commission's determination appears to create a special, more exacting burden of proof for female claimants following childbirth, contrary to federal law.

Opinion by Gary D. Witt, Judge

March 25, 2014

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